



KWBI

The Family Life Channel

16075 W. Belleview Avenue

Morrison, CO 80465

303 697-5924

June 16, 1993

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Rules Implementing Must-Carry and
Retransmission Consent Provisions of the
1992 Cable Act
MM Docket No. 92-259

Dear Ms. Searcy:

Submitted herewith is an original and fourteen (14) copies of a Reply to an Opposition of our Petition for Reconsideration relating to MM Docket No. 92-259.

Should any questions arise in connection with this reply, please communicate to me.

Respectfully Submitted

Michael K. Brinks
Station Manager, KWBI-TV

Enclosure

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Before the
FEDERAL COMMUNICATIONS COMMISSION

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high-power licensed stations were included, not excluded as San Jacinto Television Corporation has represented. A review of the history of the language of the qualified commercial and noncommercial station definitions in S-12 as it was written and then amended shows the effort Congress made to insure that high-power noncommercial stations like KWBI-TV would not be excluded from its must-carry provisions.

As S-12 was reported out of the Senate Committee on Commerce, Science, and Transportation (Report No. 102-92) the definitions of qualified commercial and non-commercial stations were very specific - so specific as to exclude stations such as KWBI-TV, an otherwise qualified noncommercial, educational television station.

S-12 A Bill, Page 66, beginning line 11, continuing to line 16:

"(20)(A) the term 'local commercial television station' means any television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regular assigned to its community by the Commission that, with respect to a particular cable system—..."

S-12 A Bill, Page 67, beginning line 15, continuing to page 68, line 10:

"(21) the term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

"(ii) is owned or operated by a municipality and transmits only noncommercial programs for educational purposes; and

"(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section (396(k))6)(B) (47 U.S.C. 396(k)(6)(B));"

Before passage, on January 29, 1992 the Senate amended S-12 on the floor to add the term "full-power" to the definition of a qualified commercial station (excluding low-power stations) and to change the word "and" to "or" in the definition of a qualified non-commercial station. (Congressional Record Page S-564 of Vol. 138 No. 8) I was informed by Senate staff that the purpose of the change of this one word was to include in the must-carry provisions of S-12 noncommercial, educational television stations, otherwise qualified, who could not qualify for a Corporation for Public Broadcasting community service grant. Words that were changed in the commercial and non-commercial definitions are underlined.

S-12 An Act, Page 14, beginning line 7, continuing to line 12:

"(20)(A) the term 'local commercial television station' means any full power television broadcast station, determined by the Commission to be a commercial station, licensed and operating on a channel regular assigned to its community by the Commission that, with respect to a particular cable system,..."

S-12 An Act, Page 15, beginning line 11, continuing to page 16, line 5:

"(21) the term 'qualified noncommercial educational television station' means any television broadcast station which—

"(A)(i) under the rules and regulations of the Commission in effect on March 29, 1990, is licensed by the Commission as a noncommercial educational television broadcast station and which is owned and operated by a public agency, nonprofit foundation, corporation, or association; or

"(ii) is owned or operated by a municipality and transmits only noncommercial programs for educational purposes; or

"(B) has as its licensee an entity which is eligible to receive a community service grant, or any successor grant thereto, from the Corporation for Public Broadcasting, or any successor organization thereto, on the basis of the formula set forth in section (396(k))6)(B) (47 U.S.C. 396(k)(6)(B));"

Both the commercial and non-commercial definitions in the bill changed as a result of the Senate - House Conference Committee meetings. The noncommercial station definition in the Conference Report (Report 102-862) reverted back to the restrictive definition as the "or" was changed back to an "and."

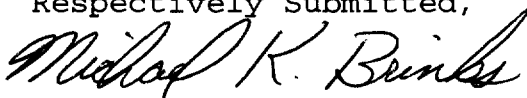
*thereto, on the basis of the formula set forth in section (396(k)(6)(B)
(47 U.S.C. 396(k)(6)(B));"*

The fact that Congress changed the specific wording of the commercial definition in S-12 to the general wording in The Act shows specific intention on the part of Congress toward including otherwise qualified high-power broadcast television stations. The language is clear and understandable in that the definition of the term "local commercial television station" is not to be defined for the purposes of section 614 of The Law more specifically than its own language. If Congress wanted the commercial definition to be more specific, it would not have changed the wording to be more general. The fact that the definition includes the clause, "For the purposes of this section" at the beginning of the definition shows it was the will of Congress that this wording only be used for this definition of this law.

The Commission has no discretion to change the specificity of Congress' wording when Congress made the effort to change this paragraph of the law. Nor does the Commission have authority to interpret the law in any way other than how Congress intended.

Thus I oppose San Jacinto Television Corporation's arguments and request that the Commission adopt wording that more closely reflects the actual definition of a local commercial television station for the purposes of this section of The Act.

Respectively Submitted,



Michael K. Brinks
Station Manager

CERTIFICATE OF SERVICE

I, MICHAEL K. BRINKS, hereby certify that on this 15th day of June, 1993, I have caused to be served by first-class mail, postage prepaid, a copy of the foregoing "Reply to an Opposition to Petition For Reconsideration," address to the individuals listed below:

**Timothy L. Crosby
Vice President, General Manager, KTFH-TV
256 Sam Houston Parkway
Houston, TX 77060**


Michael K. Brinks